

COUNCIL MEETING

MINUTES



For the Ordinary Meeting of Council held on

18 September 2019

ATTENTION/DISCLAIMER

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MINUTES

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President, Cr Egerton-Warburton declared the meeting open at 3.07pm. The Shire President alerted the meeting to the procedures for emergencies including evacuation, designated exits and muster points.

2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

2.1 ATTENDANCE

President	Cr CY (Colin) Egerton-Warburton
Councillors	Cr DJ (David) Adams
	Cr PM (Peter) Beech
	Cr ER (Ruth) Bigwood
	Cr P (Peter) Denton
	Cr PW (Peter) Slater
	Cr DS (David) Carey
	Cr VN (Vanessa) Fiegert

Chief Executive Officer	Mr PB (Peter) Northover
Manager of Finance & Administration	Mrs PA (Trish) Standish
Works Supervisor	Mr WM (Wayne) Toovey
Minute Taker	Miss MJ (Maddison) Wright

Members of the Public	Eleven
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2.2 APOLOGIES

Manager of Works	Mr JE (Jeff) Alderton
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2.3 APPROVED LEAVE OF ABSENCE

Deputy President	Cr PL (Phil) Horrocks
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3. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Nil

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

Nil

5. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Mrs Janine Phillips gave a presentation to Council on the history of their property that adjoins Lot 1 (935) Bunnings Log Road Frankland River.

Mr Ryan Phillips read the following statement to Council.

"I grew a wide range of vegetables at Unicap including Cauliflower, Broccoli, Potato's, Pea Corn and Broccolini. Horticulture production is something we are very good at."

I took over production of cauliflower in 2002. Looking for an advantage, we did soil sampling and I came across the Manjimup Horticulture research stations cauliflower fertilizer plan.

A testament to how good the land is at Unicup was that I was able to follow a fertilizer plan developed to be used on rich karri loam to a (t) and still produce truckload after truckload of premium export grade cauliflower.

World population has increased from less than 2 billion people in the 1800s to pushing 7 billion in 2019. World population is growing exponentially.

I am asking for the Cranbrook Shire Council to consider a situation where a place like China's domestic demand for food outstrips its domestic production of food. Something I believe will happen in my life time. The opportunity for agriculture and horticulture for Australian farmers will be huge,

If you approve this plantation you will be tying up quality land with direct access to the large amounts of fresh water for at least four generations and most likely forever. The green desertification of our district will commence again.

Please stand by your decision to protect the zoning of priority agricultural land. "

Ms Jamie Phillips made a statement to Council on the viability of the agricultural land in the Unicup area.

Mr David Guille from the Forrest Products Commission (FPC) made a statement to Council stating that whilst FPC have made an offer to purchase Lot 1 (935) Bunnings Log Road Frankland River, they were not looking at further Unicup properties at this time. Mr Guille also advised Council that FPC will continue to pay property rates.

PROCEDURAL MOTION

Motion 01092019

**Moved Cr Adams, seconded Cr Denton that this Council meeting be adjourned at 3.35pm.
Carried 8/0**

The meeting was resumed at 3.42pm with the following in attendance:

President	Cr CY (Colin) Egerton-Warburton
Councillors	Cr DJ (David) Adams Cr PM (Peter) Beech Cr ER (Ruth) Bigwood Cr P (Peter) Denton Cr PW (Peter) Slater Cr DS (David) Carey Cr VN (Vanessa) Fiegert
Chief Executive Officer	Mr PB (Peter) Northover
Manager of Finance & Administration	Mrs PA (Trish) Standish
Works Supervisor	Mr WM (Wayne) Toovey
Minute Taker	Miss MJ (Maddison) Wright
Members of the Public	Ten

6. APPLICATIONS FOR LEAVE OF ABSENCE

Motion 02092019

Moved Cr Denton, seconded Cr Carey that Cr Slater be granted a leave of absence for the 16 October ordinary meeting of Council.

Carried 8/0

7. DISCLOSURE OF INTEREST

Indirect Financial Interest

Cr Ruth Bigwood

Item 10.2.1

Type: Indirect Financial Interest pursuant to Section 6.51 of the Local Government Act 1995

Nature: Owner of property leased to the FPC.

Indirect Financial Interest

Cr Peter Beech

Item 10.2.1

Type: Indirect Financial Interest pursuant to Section 6.51 of the Local Government Act 1995

Nature: Owner of property leased to the FPC.

Proximity Interest

Cr Peter Beech

Item 10.2.3

Type: Proximity Interest pursuant to Section 5.60B Local Government Act 1995

Nature: Land owner adjoining the strata.

8. MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

9.1 ORDINARY MEETING – 21 August 2019

Motion 03092019

Moved Cr Fiegert, seconded Cr Slater that the minutes from the ordinary meeting of Council held on 21 August 2019, be confirmed as a true and correct record.

Carried 8/0

10. REPORTS OF OFFICERS

10.1 FINANCE & ADMINISTRATION

10.1.1 LIST OF PAYMENTS

RESPONSIBLE OFFICER: Trish Standish – Manager of Finance and Administration

REPORT AUTHOR: Jodi Vitler – Finance Admin Officer

FILE REFERENCE: FM2

APPLICANT: N/A

DATE OF REPORT: 9 September 2019

ATTACHMENTS: List of Payments – 1 August 2019 to 31 August 2019

Purpose

The purpose of this report is to advise the Council of payments made during the period 1 August 2019 to 31 August 2019.

Background

Nil

Officers Comment

Nil

Statutory Environment

Local Government (Financial Management) Regulation 13 states:

13. List of accounts

(1) If the local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the Chief Executive Officer is to be prepared each month showing for each account paid since the last such list was prepared:

- (a) the payee's name;
- (b) the amount of the payment;
- (c) the date of the payment; and
- (d) sufficient information to identify the transaction.

Policy Applicable – Implications

Council Policy 4.8 – 'Purchasing', states that:

"The Chief Executive Officer is delegated authority to make payments from the Municipal Fund or the Trust Fund. Each payment from the Municipal Fund or the Trust Fund is to be noted on a list compiled for each month showing:

- a) The payee's name*
- b) The amount of the payment*
- c) The date of the payment*
- d) Sufficient information to identify the transaction.*

The list referred to above is to be presented to the Council at each ordinary meeting of the Council and is to be recorded in the minutes of the meeting at which it is presented.

It is considered appropriate to delegate this authority to the Chief Executive Officer as the payment of accounts is the final process after debts have been incurred through other processes and systems in place."

Financial Implications

There are no financial implications for this report.

Risk Implications

The risks associated with matters in this report are:

- Misconduct
- Errors, Omissions and Delays
- Failure of IT and or Communication Systems and Infrastructure
- Failure to fulfil Statutory, Regulatory or Compliance Requirements
- Inadequate Document Management Processes
- Inadequate Supplier/Contract Management

The **impact** of the risk is Financial, Non-Compliance and Reputational.

The **consequences** of these risks are considered to be Major

The **likelihood** is Rare

Hence the **risk rating** for this item is Low

Risk mitigation includes the Council having strong financial policies and procedures in place and the requirement to report to the Council on a monthly basis.

Strategic Community Plan Reference

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

Objective 4: Leadership - Demonstrate strong governance, leadership and organisational growth

Outcome 4.1: Excellence in governance, compliance, regulation and reporting

Strategy 4.1.1: Maintain a high level of corporate governance, responsibility and accountability

Consultation

Consultation was not required for this report.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION/COUNCIL DECISION

Motion 04092019

Moved Cr Adams, seconded Cr Beech that the payment of accounts totalling \$457,047.12 as per the attachment be noted:

- **Electronic Funds Transfers EFT9997 to EFT10090 - \$276,353.26;**
- **Municipal Fund Cheque No's 12177 – 12181 - \$867.36;**
- **Internal Account Transfers (Payroll) - \$151,774.53; and**
- **Direct Debit - \$28,051.97.**

Carried 8/0

10.1.2 MONTHLY FINANCIAL STATEMENTS

RESPONSIBLE OFFICER:	Trish Standish – Manager of Finance and Administration
REPORT AUTHOR:	Jodi Vitler – Finance Admin Officer
FILE REFERENCE:	FM12
APPLICANT:	N/A
DATE OF REPORT:	11 September 2019
ATTACHMENTS:	Financial Statements for August 2019

Purpose

The purpose of this report is to present the financial position of the Shire of Cranbrook as at 31 August 2019.

Background

The Local Government (Financial Management) Regulations 1996 require the preparation of monthly financial statements and presentation of these statements to the Council.

Officers Comment

The August financial statements report on two months, or 17% of the financial year. It is worthy to note:

- The 'Municipal Fund Summary' on page 2 shows that we have raised 77% of our expected operating income. This higher percentage is due to the fact that property rates are recognised as revenue when they are raised and not when they are paid;
- The 'Municipal Fund Summary' on page 2 shows that we have spent 20% of the budgeted operating expenditure for the year;
- The 'Municipal Fund Summary' on page 3 shows a net current assets position of \$3,842,290 (surplus), which is mainly made up of \$2m cash on hand; and \$2.1m rates debtors; and
- The 'Variance Report' on page 8 defines the major variances between budget and actual figures as required by the regulations.

Statutory Environment

The Local Government (Financial Management) Regulations 1996 define the requirements for monthly financial reporting (Regulation 34).

Policy Applicable – Implications

Council Policy 4.1 Defining Material Variances, states that:

When dividing the actual figures with the annual budget figure, a variance of plus or minus 10% of the percentage of the year elapsed will be reported. In addition, a variance must be greater than \$1,000 to be reported.

Financial Implications

Whilst the financial statements report on the current position of the Council, the adoption of the recommendation below does not have a financial impact.

Risk Implications

The risks associated with matters in this report are:

- Misconduct
- Errors, Omissions and Delays
- Failure of IT and or Communication Systems and Infrastructure
- Failure to fulfil Statutory, Regulatory or Compliance Requirements
- Inadequate Document Management Processes
- Inadequate Supplier/Contract Management

The **impact** of the risk is Financial, Non-Compliance and Reputational

The **consequences** of these risks are considered to be Major

The **likelihood** is Rare

Hence the **risk rating** for this item is Medium

Risk mitigation includes the Council having strong financial policies and procedures in place and the requirement to report to the Council on a monthly basis.

Strategic Community Plan Reference

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

Objective 4: Leadership - Demonstrate strong governance, leadership and organisational growth

Outcome 4.1: Excellence in governance, compliance, regulation and reporting

Strategy 4.1.1: Maintain a high level of corporate governance, responsibility and accountability

Consultation

Consultation was not required for this report.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION/COUNCIL DECISION

Motion 05092019

Moved Cr Beech, seconded Cr Adams that the attached financial statements for the period ending 31 August 2019 be noted.

Carried 8/0

Indirect Financial Interest

Cr Ruth Bigwood

Item 10.2.1

Type: Indirect Financial Interest pursuant to Section 6.51 of the Local Government Act 1995

Nature: Owner of property leased to the FPC.

Indirect Financial Interest

Cr Peter Beech

Item 10.2.1

Type: Indirect Financial Interest pursuant to Section 6.51 of the Local Government Act 1995

Nature: Owner of property leased to the FPC.

Cr Beech and Cr Bigwood left the chambers at 3:46pm

10.2 GOVERNANCE & EXECUTIVE SERVICES

10.2.1 PROPOSED PLANTATION – LOT 1 (NO 935) BUNNINGS LOG ROAD, FRANKLAND RIVER

RESPONSIBLE OFFICER: Peter Northover - Chief Executive Officer

REPORT AUTHOR: Amanda Butterworth - Allerding & Associates

FILE REFERENCE: A1023

APPLICANT: Forrest Products Commission

DATE OF REPORT: 18 September 2019

ATTACHMENTS:

1. Site Plan showing existing and proposed plantation areas (labelled Operations Map)
2. Updated Management Plan by Forest Products Commission
3. Location Plan – Ramsar site
4. Table of submissions

Purpose

The purpose of this report is for the Council to reconsider an application to extend an existing plantation on Lot 1 Bunnings Log Road, Frankland River. The invitation to reconsider is provided pursuant to Section 31 of the State Administrative Tribunal Act 2005.

Background

It is understood that portion of the subject property has been used for a plantation since the 1990s. The Shire has no record of planning approval for the original plantation, however, the plantation would have commenced prior to gazettal of the Shire of Cranbrook Town Planning Scheme No. 4.

This report has been prepared using the base of the report considered by Council in June 2019 with relevant updates addressing the matters subject of the additional information and revised application now before Council.

- **Location**

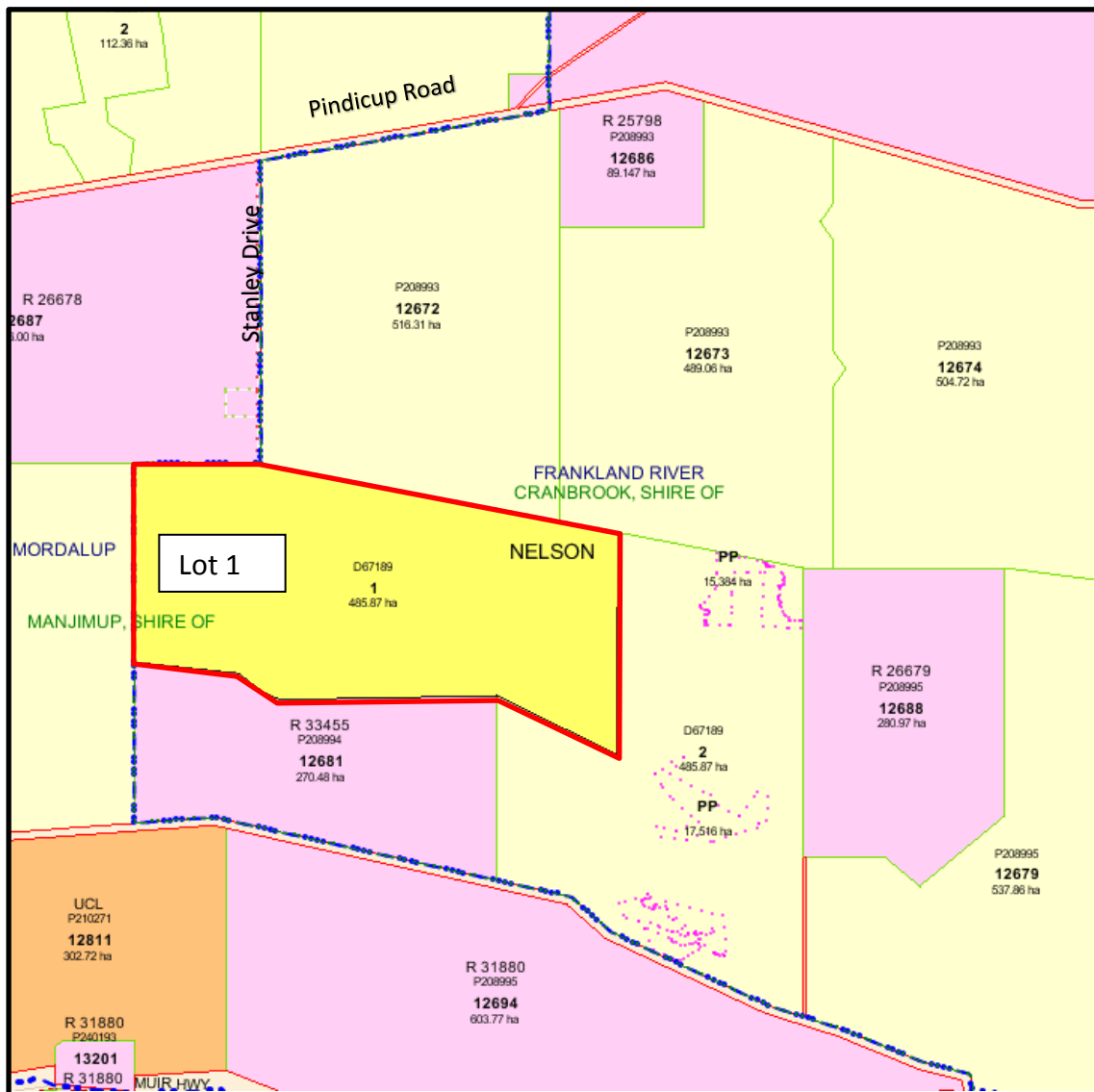
Lot 1 has an approximate area of 485.8 hectares, and contains an existing plantation area of 125 hectares.

The lot is located adjacent to the local boundary between the Shire of Cranbrook and Shire of Manjimup. The main access to the property is via Stanley Drive which is located in the Shire of Manjimup.

A location plan is included over page for ease of convenience.

- **Previous Council Consideration**

The planning application for this proposal was lodged in April 2019. A report on this application was referred to Council at the Ordinary meeting held on the 15 May 2019. Council resolved to lay the item on the table in order to seek public comment and allow the application to be reviewed at a future Council meeting.



Location Plan

The application was advertised with a total of 19 submissions being received, consisting of 17 submissions objecting the proposal and 2 submissions in support of the proposal. The application was presented back to Council for determination at its meeting of 19 June 2019 again whereby it was resolved to refuse the application for the following reason:

Council were of the view that the plantation extension is not consistent with the state planning framework's underlying theme to protect productive agricultural land, and the

planting of an entire lot/farm is contrary to the objective of the Rural zone 'to ensure the continuation of broad-hectare agriculture in the district encouraging where appropriate the retention and expansion of agricultural activities'.

The Applicant lodged an Application for Review with the State Administrative Tribunal in regard to Council's decision to refuse the Application.

The Shire's representatives and the Chief Executive Officer attended a mediation at the State Administrative Tribunal. Subsequent to the mediation, the applicant has now submitted additional information and a modified application in relation to this matter.

SAT Orders have been issued that *"Pursuant to s 31 (1) of the State Administrative Tribunal Act 2004 (WA), the Respondent is invited to reconsider its decision at its meeting of 18 September 2019."*

- **Strategic Planning**

Shire of Cranbrook Local Planning Strategy July 2016

The Shires Local Planning Strategy was prepared by TPI in collaboration with Shire Administration and Council. Following advertising, the Local Planning Strategy was adopted by Council and has been endorsed by the Western Australian Planning Commission in July 2016.

The Local Planning Strategy focused on the main town sites within the Shire. It includes a section on 'land outside of townsite boundaries', and recognises that it is mainly Rural land used for farming.

The Shires Local Planning Strategy states as follows:

"Over time there has been a diversity of other new ventures, including tree plantations, free range poultry and more recently free range pig farming (with low stocking rates per hectare).

These contemporary rural uses, and the more traditional rural activities, should be encouraged throughout the Shire and located according to land capability, suitability and servicing needs."

The Local Planning Strategy also includes the following reference to plantations:

"A wide range of different landuses can be applied for in the Rural zone such as wind farms, feedlots, intensive agriculture, solar panel farms, agroforestry, tree plantations and the like. All of these uses are controlled through the existing Shire of Cranbrook Town Planning Scheme No 4. No changes are proposed in regards to Rural related landuses, and this Strategy focuses on the main townsites within the Shire."

The Shires Local Planning Strategy recognises that there is a diverse range of contemporary rural uses such as plantations, encourages these uses in suitable locations, and does not recommend any changes to rural related land uses under the Shire of Cranbrook Town Planning Scheme No 4.

WAPC Lower Great Southern Strategy 2016

The Lower Great Southern Strategy 2016, prepared by the WAPC, identifies that portion of the site contains Priority Agricultural Land. In regard to farm forestry, the Lower Great Southern Strategy states as follows:

This land use can have impacts from a visual landscape perspective, can result in long term land use change and can compete with food production land uses on priority agricultural land. As such there remains a need for State and local planning to manage tree plantations through policies, strategies and schemes.

Figure 3 of the 2016 strategy identifies priority agricultural land across the lower great southern area. It is accepted that there is priority agricultural land located within this site. The State Solicitors Office, on behalf of the Applicant, has advised that *“the available data suggests that only 64 ha of the site area of 485.8 ha (i.e. approximately 13.2 per cent) falls within this category, but that there are greater areas of such land within the Shire and Great Southern region.”*

State Planning Policy 2.5: Rural Planning December 2016

The WAPC State Planning Policy 2.5: Rural Planning dated December 2016 (SPP2.5) provides a state level planning framework that is relevant to the consideration of this application. Section 3.1 of the policy refers to priority agricultural land and states that *“the identification of priority agricultural land is based upon high quality agricultural land data that has been subject to consultation and refinement ...”* SPP2.5 also states *“in order to implement State Policy, priority agricultural land should be identified in strategies and scheme for that purpose.”* The zoning of this site is Rural, however the scheme or local planning strategy do not identify priority agricultural land. Furthermore, the Shire does not have any local planning policies identifying prime agricultural land.

WAPC policy in regard to tree farming pursuant to SPP2.5 is as detailed below:

- a) tree farming is supported and encouraged on rural land as a means of diversifying rural economies and providing economic and environmental benefit;*
- b) tree farming should generally not occur on priority agricultural land;*
- c) tree farming should generally be a permitted use on rural land, except where development of a tree farm would create an extreme or unacceptable bushfire risk or when responding to specific local circumstances as identified in a strategy or scheme;*
- d) local governments should manage the location, extent and application requirements for tree farming in their communities through local planning strategies, schemes and/or local planning policies; ...*

SPP2.5 defines agricultural land use or agricultural purposes as follows: *“A subset of rural land used specifically for agricultural purposes including agriculture – extensive, agriculture – intensive, pastoral uses, plantations and agro forestry. May include industry – primary production. Does not include rural living”* (emphasis added).

Therefore, plantations are reasonably considered to be an agricultural land use under SPP2.5.

The Shire does not have any relevant Local Planning Policies to manage the plantations. As detailed later in this statement, a tree plantation is a discretionary land use in LPS4.

Officers Comment

- ***Description of Application***

The application has been lodged by the Forest Products Commission which is the governments' statutory authority with responsibility for management of Western Australia's renewable timber resources.

The application proposed to extend/expand the existing plantation on Lot 1 which is currently owned by Mr Peter Swift. The Forest Products Commission has identified that the land is suitable for additional plantation areas, and intends to purchase the land conditional on obtaining local government approval.

The original and revised application details are described below to:

- a. Establish a plantation immediately in the 2020 winter, the size of which was originally proposed as 80 hectares but has now been reduced to 77.5 hectares; This area is located along the northern boundary of the site and is generally located east of the connection to Stanley Drive (as constructed) together than a 5.4 hectare area central to the site surrounding an existing swamp;
- b. Clear fall the 125 hectare existing plantation in Autumn 2020 before re-establishing the area in the winter of 2020.
- c. Clear 66.7 hectares (original application proposed 68 hectares) of land scattered with native vegetation and establish plantation areas. Establishment of this portion of the plantation would be subject to a separate clearing permit being obtained by the Department of Water and Environmental Regulation. The areas to be cleared for a future plantation consist of an area of 24.6 hectares to the north western end of the property and an area of 40.6 hectares at the south eastern boundary and 1.5 a hectare area along the northern boundary central to the site, near to power lines.

The total plantation area on the site is proposed to be 269 hectares (reduced from 273 hectares in the original application). A copy of the Operations map (plan showing areas subject of proposed plantation) is included as Attachment 1. The Operations Map included in Attachment 1 has been updated since that considered in June 2019 (to reduce the area to 269 hectares from 273 hectares).

The site is to be planted with *Pinus radiata* seedlings sourced from the Forest Products Commission nursery in Manjimup.

In addition to the operations map (plan showing the areas proposed for the plantation), the Forest Products Commission have also prepared an updated Plantation Management Plan which summarises management practices in relation to:

- Plantation establishment;
- Weed and pest management;
- Fire management; and
- Timber harvesting.

A copy of the updated Plantation Management Plan is included as Attachment 2. Compared to the Plantation Management Plan considered in June 2019, the current Plantation Management Plan has been updated to provide additional information in regard to the following:

- Priority Agricultural Land;
- The relationship with the Environmentally Sensitive Areas;

- Additional information in regard to buffers to wetlands and waterways;
- Arrangements for access to Stanley Drive; and
- Management of pests and weeds.

- **Consultation**

Prior the Council determining the application in June 2019, the Shire advertised the proposal. A total of 19 submissions were received consisting of 17 objections and 2 non objections or submissions in support. A summary of the submission and comment in regard to the submissions is included at Attachment 4.

In summary the primary concerns raised in the submissions relate to:

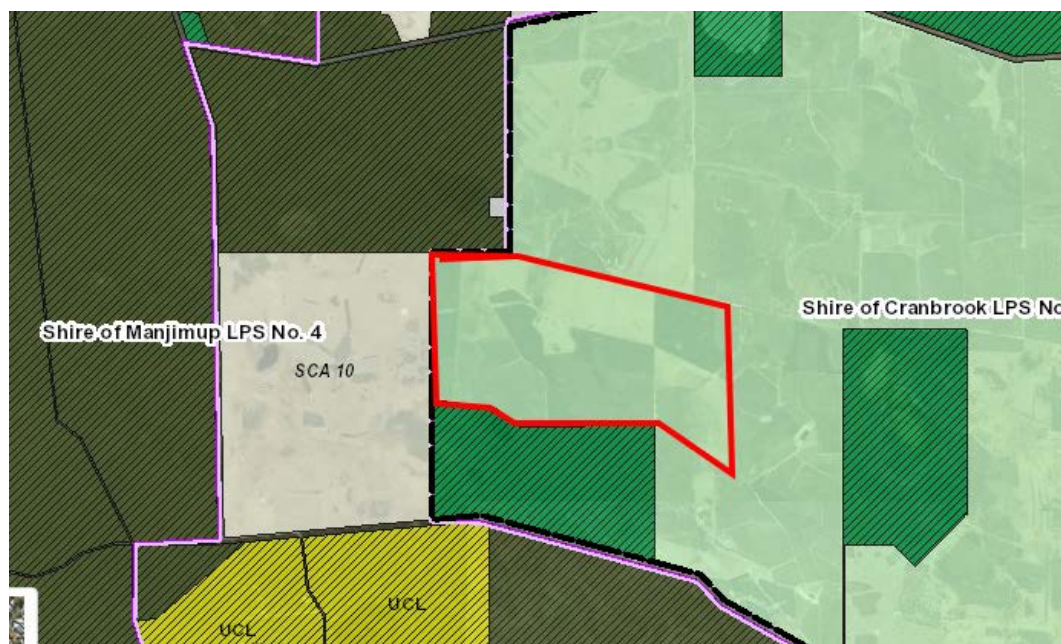
- a) Use of priority agricultural land for other purposes;
- b) Loss of productivity of priority agricultural land;
- c) Social impact on the community;
- d) Economic impact on the community given that plantations can result in a reduction of the population;
- e) The historic impacts that blue gum plantations had on the local community;
- f) The potential impact of feral animals on adjacent properties;
- g) Increased fire risk;
- h) The impact of declining water tables especially on nearby agricultural operations;
- i) Poor management practices used in other historic tree farms in the locality;
- j) Inadequate fencing to stop vermin as well as trespassers onto adjoining properties;
- k) The adverse impact of introducing monoculture into the area.

Further consultation has not been undertaken in regard to the reconsideration of this application. It is considered likely that the concerns of the objectors are still a relevant consideration to be taken into account in determining the application.

Statutory Environment

- ***Consideration under the Scheme***

Lot 1 is zoned 'Rural' under the Shire of Cranbrook Town Planning Scheme No 4 ('the Scheme'). The Shire does not have a separate zoning, policy or strategy to differentiate priority agricultural land from other rural zoned land.



Zoning plan. Source Plan WA www.dplh.wa.gov.au

The Shire of Cranbrook's Town Planning Scheme No 4 includes objectives for the Rural zone as follows:

- *To ensure the continuation of broad-hectare agriculture in the district encouraging where appropriate the retention and expansion of agricultural activities.*
- *To provide for intensive agricultural use in suitable areas.*
- *To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.*
- *To allow for facilities for tourists and travellers, and for recreation uses.*
- *To help protect rural land from land degradation and further loss of biodiversity by:*
 - *minimising clearing of remnant vegetation*
 - *encouraging retention and protection of remnant vegetation*
 - *encouraging development and protection of vegetation corridors*
 - *encouraging development of sustainable surface and sub-surface drainage works*
 - *encouraging rehabilitation of salt-affected land*
 - *encouraging soil conservation through land management measures*
 - *encouraging identification and protection of wetlands.*
- *To promote the sustainable management of natural resources, and the prevention of land degradation.*
- *To have regard to use of adjoining land at the interface of the rural zone with other zones to avoid adverse effects on local amenities.*

In regard to the first objective listed in regard to ensuring the continuation of broad hectare agriculture, as outlined under SPP2.5: Rural Planning, agriculture includes plantations.

The application as lodged is described as *“expansion and re-establishment of softwood plantation.* A plantation is defined in the Scheme as *‘has the same meaning as in the Code of Practice for Timber Plantations in Western Australia (1997) published by the Department of Conservation and Land Management and the Australian Forest Growers’.* The land use is reasonably described as a plantation.

The Code of Practice was developed by the Forest Products Commission and includes a term for plantation as being *‘a stand of trees of ten hectares, or larger, that has been established by sowing or planting of either native or exotic tree species selected and managed intensively for their*

commercial and / or environmental value. A plantation includes roads, tracks, firebreaks and small areas of native vegetation surrounded by plantations. Implicit in this definition is the recognition that plantations will be harvested.'

A plantation is listed as a 'D' use in the Rural zone under 'Table 1 – Zoning Table', which 'means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.'

Clause 5.20 of LPS4 relates to general development requirements for the Rural Zone. Clause 5.20.2 outlines a number of considerations for plantations as summarised below:

Matters for consideration under the Scheme – Clause 5.20 (a)	Comment
The Code of Practice for Timber Plantations in WA	There are applicable aspects such as weed control, provision of a fire management plan etc which the application complies with. The applicant has updated the weed control provisions of the management plan in response to matters raised in mediation.
Submission of plantation management plan in accordance with the protocol in the Code of Practice	<p>The applicant has lodged a management plan which examines issues such as access, plantation design, watercourse protection, soils, weed control etc.</p> <p>General landscape features of the lot will be maintained and includes streams, water ways, rock outcrops and native vegetation cells.</p> <p>The applicant has updated the provisions of the management plan in relation to water course protection, weed control and vermin control in response to matters raised in mediation.</p>
The need to encourage the commercial production of trees which is of significance to the national, regional and local economy.	Noted. The Shires Local Planning Strategy encourages contemporary rural uses such as plantations.
The benefits of agroforestry and plantations in addressing land degradation including soil erosion and salinity.	Noted.
The role of agroforestry and plantations in protecting water quality and preventing adverse effects on ground water re-charge.	Noted. The updated management plan states <i>"There are a number of wetlands and drainage lines on the property which will be buffered from establishment operations (6 m planting setback from the edge). Waterways will be identified through analysis of topographic mapping and on ground visual inspection."</i>

Matters for consideration under the Scheme – Clause 5.20 (a)	Comment
The location of the land in relation to land zoned for residential, industrial, commercial uses.	Noted. The lot is surrounded by rural zoned land and reserves. It is not located near any residential, industrial or commercial zones.
The suitability of the current and future road systems.	Conditions can be imposed relating to harvesting. Access is discussed separately in this report.
Any Local Planning Policy adopted by the local government.	There is no existing local planning policy. The Shire has a Local Planning Strategy which is discussed in the background section of this report.
Any objective of the Rural zone under Part 4.	<p>Noted. Whilst the main objective is for continuation of broad-hectare agriculture in the Rural zone, Council has discretion under the Scheme to consider a wide range of other agricultural land uses in the rural zone.</p> <p>A plantation is a form of agricultural land use (as defined in State Planning Policy 2.5) but it is noted that this is not agriculture intensive or agriculture extensive as defined under the scheme.</p> <p>This is further discussed in the report.</p>

- **State Planning Policy 2.5 – Rural Planning**

‘Section 5.6 – Tree Farming’ under the current State Planning Policy 2.5 rural planning deals with tree farming, the following is comment in relation to the WAPC policy on the farming.

State Planning Policy 2.5	Consultant Planner comment (TPI)
The WAPC policy in regard to tree farming is:	
(a) tree farming is supported and encouraged on rural land as a means of diversifying rural economies and providing economic and environmental benefit;	Noted. The Shire’s Local Planning Strategy recognises that there is a range of contemporary rural uses throughout the Shire.
(b) tree farming should generally not occur on priority agricultural land;	It is noted that this refers to priority agricultural land but does not prohibit tree farms on priority agricultural land. However, this is a discretionary use and the Shire does not have a local planning policy in place in regard to tree farms and priority agricultural land. This proposal would utilise 0.11% of the priority agricultural land in the Shire.

State Planning Policy 2.5	Consultant Planner comment (TPI)
	It is recommended that the Shire adopt a local planning policy in order to provide objectives and guidance for dealing with tree farms on priority agricultural land.
(c) tree farming should generally be a permitted use on rural land, except where development of a tree farm would create an extreme or unacceptable bushfire risk or when responding to specific local circumstances as identified in a strategy or scheme;	Noted. The Local Planning Strategy and / or Scheme do not identify any specific local circumstances. A tree farm or plantation is a discretionary use on rural zoned land. A Fire Management Plan has been lodged as required under the Timber Code of Practice.
(d) local governments should manage the location, extent and application requirements for tree farming in their communities through local planning strategies, schemes and/or local planning policies;	Noted. The Scheme makes reference to a Local Planning Policy for plantations in case one is developed/ adopted by the Shire in the future. At this point in time the Shire has not prepared or adopted a local planning policy to detail the preferred location and extent of tree farming in the Shire.
(e) in planning for tree farming, local government considerations should include but are not limited to, potential bushfire risk, environmental and economic factors, water availability and recharge, visual landscape impacts, transport impacts of tree farming (where harvesting is proposed), planting thresholds, appropriate buffers, and location relative to conservation estates and sensitive land uses;	Noted. These matters are discussed in the agenda report and / or in the applicants' management plan.
(f) where tree farm proposals are integrated with farm management for the purpose of natural resource management and occupy no more than 10 per cent of the farm, the proposal should not require local government development approval; and	Noted. This is not applicable as the proposed plantation area exceeds 10%.
(g) the establishment of tree farms does not warrant the creation of new or smaller rural lots.	Noted.

SPP2.5 discusses 'priority agricultural land' as land of State, regional or local significance for food production purposes due to its comparative advantage in terms of soils, climate, water (rain or

irrigation) and access to services. Priority agricultural land is derived from High Quality Agricultural Land data that has been subject to consultation and refinement, and has removed land required for existing and future urban/development areas, public use areas and land required for environmental purposes.

The WAPC Policy includes plantations in the definition of 'agricultural land use / agricultural purposes' and classifies it as one of a subset of rural land used specifically for agricultural purposes.

The Policy definition for 'Agricultural land use / agricultural purposes' means '*a subset of rural land used specifically for agricultural purposes including agriculture – extensive, agriculture – intensive, pastoral uses, plantations and agro forestry. May include industry – primary production. Does not include rural living.*'

- **Priority Agricultural Land**

A number of State Planning Policies and Strategies place emphasis on the importance of protecting priority agricultural land.

The Lower Great Southern Strategy, produced by the Western Australian Planning Commission (WAPC) in regard to agriculture includes the objective to facilitate sustainable development of the agricultural sector and maximise opportunities for diversification of agriculture and downstream processing. The strategy encourages that local matters be addressed through local planning strategies, scheme reviews and local planning policies.

Lot 1 is to the north of Muir Highway and Lake Muir. Advice from the Department of Primary Industries and Regional Development (DPIRD) is that Priority Agricultural Land is a broad scale capability assessment of the land only looking at physical characteristics and does not consider any access to water for irrigation. However, it is noted that, in regard to perennial horticulture, the full potential of the soil can't be realised without irrigation. The DPIRD has provided data to FPC that details that there is a total of 59,000 hectares of land capable of perennial horticulture (water not considered) in the Shire of Cranbrook. Of that there is 3,351 hectares with greater than 70% of the land unit having high capability. The information provided by FPC is that the proposed plantation includes 64 hectares of priority agricultural land. This represents 0.11% of the total priority agricultural land within the Shire.

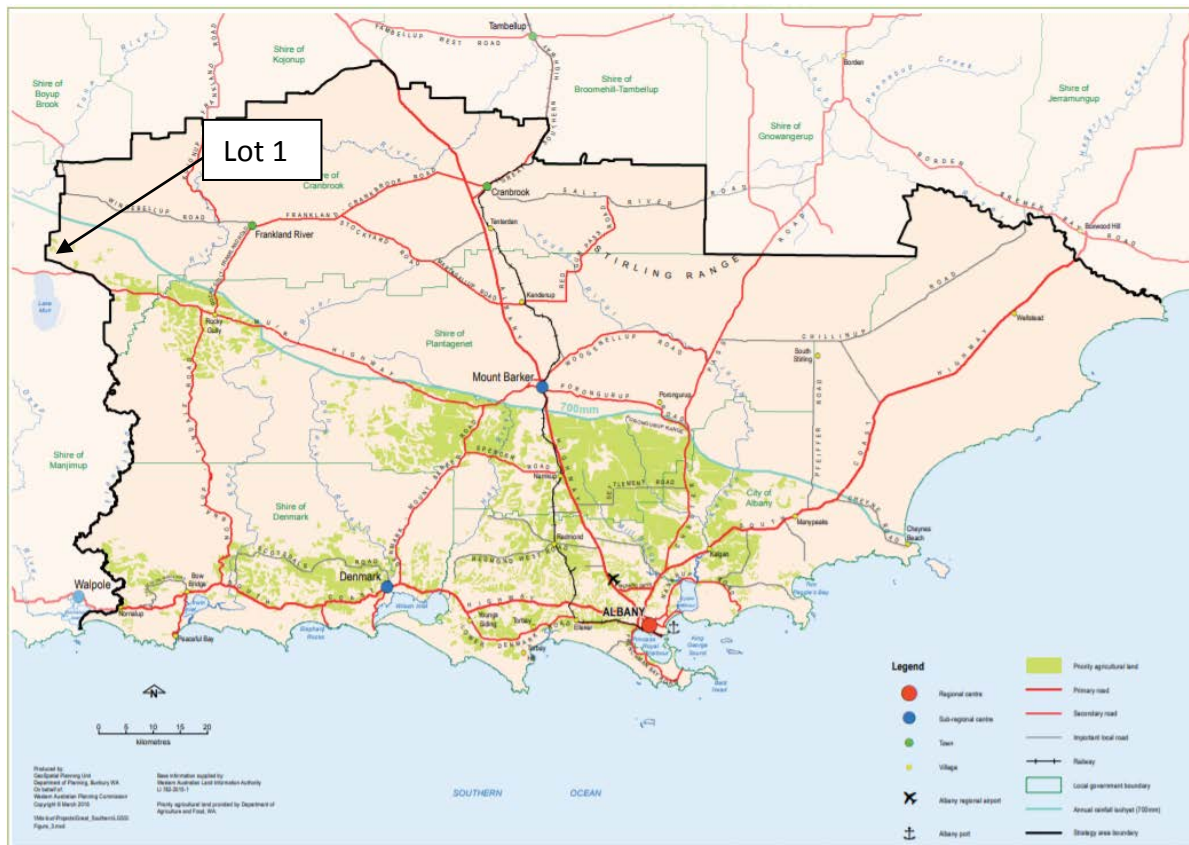


Figure 3: Priority agricultural land

Notwithstanding that this proposal would utilise 0.11% of priority agricultural land in the Shire, if there is insufficient water available to the site then this could render the land incapable of supporting a perennial horticultural crop.

- **Plantation Management Plan**

As outlined in this report, the FPC have provided an updated management plan. In regard to the management plan it is noted that the plan now states that the FPC will enter into a Haul Route Agreement with the Shire prior to commencement of haulage operations. In the event that the Shire approved the application this should be included as a condition.

The management plan also states that planting will be set back 6 metres from the edge of the drainage lines and wetlands. The plan has been updated to show setbacks to the major drainage lines. If approved, it is considered appropriate that the FPC be required to provide detailed plans showing the edges of all drainage lines and wetlands and the proposed adjacent planting areas as well as riparian vegetation to be protected as detailed in the plantation management plan.

The plan identifies that, in regard to firebreaks, external firebreaks of 15m in width will be provided and internal firebreaks will measure 6 metres wide.

The plantation management plan has been updated to identify that weed control will be carried out by the use of herbicides and that flowing water ways will be excluded from herbicide applications. There is no detail in the plantation management planning regarding consultation with adjoining landowners when applying herbicides. Furthermore, the tree farm tending plan details the weed management will be on an annual basis after establishment. It is noted that the pest control is identified as being 3-6 monthly. It is not considered unreasonable to require 6 monthly weed checks, at the same time that monitoring of plans is being carried out.

The management plan includes a short section in regard to control of vermin and declared weeds. This states that declared weeds will be checked by surveillance and maintained over the plant rotation. This management plan does not provide a schedule in terms of regularity that the site will be checked for weeds nor the timing for herbicide application and/or removal. It is considered reasonable that the FPC be required to provide a weed control management plan detailing timing of inspection throughout the site for weeds an appropriate action. This should include more detailed strategies for land adjacent to other agricultural land uses.

The plantation management plan also suggests that wild pigs and deer will be controlled in line with advice from DPIRD. The Plantation Management plan does not specifically detail whether there will be a caretaker on site at all times. Given that there could potentially not be a caretaker on site, it is appropriate that a consultation strategy be prepared and incorporated into the plantation management plan to provide adjacent landowners relevant contact details in the event that wild animals are not being controlled. Furthermore, the plantation management plan does not provide for any strategies in the event that wild pigs and deer grazing on the property result in issues for adjoining landowners. Details of strategies including a regular monitoring program to check for wild pigs and deer and details of strategies to address populations of wild deer and/or pig etc, including ground baiting, aerial baiting, shooting, trapping and fencing, should be required to be provided

Section 4.5 of the plantation management plan details that grazing activity may be considered when the plantation is 3-6 years. This section of the strategy does not refer to the need to fence drainage lines, wetlands and riparian vegetation. This should be updated accordingly to reflect the commitments given in 2.3.1 of the Plantation Management Plan.

Further, the plantation management plan should be updated to provide a consultation strategy for when thinning and heavy haulage movements are required.

- **Road access – Stanley Drive**

The lot is accessed from the north via Stanley Drive, off Pindicup Road.

The southern portion of Stanley Drive has been constructed outside of the formal road reserve and Stanley Drive, as constructed traverses through adjacent Reserve 26422 and Reserve 26678 which are in the Shire of Manjimup – refer plans over page.

Reserve 26422 is Crown land for a timber mill, and Reserve 26678 is managed by the Department of Biodiversity Conservation and Attractions (DBCA) for conservation.

Access to the plantation is important for fire management, emergency services and any future harvesting plan.

In response to matters raised in the mediation, the plantation management plan has been updated to reflect the fact that the final (southern) portion of Stanley Drive, being a 600 metre section does not follow the road reserve and in fact traverses through a corner of Kodjinup Nature Reserve.

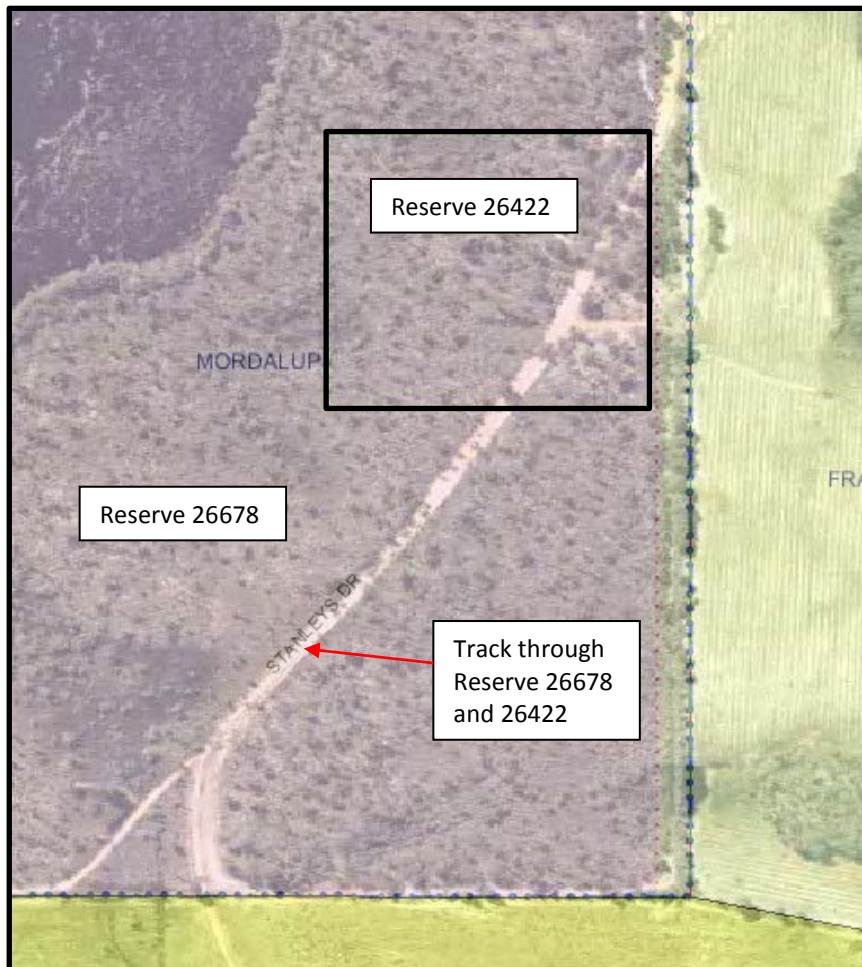
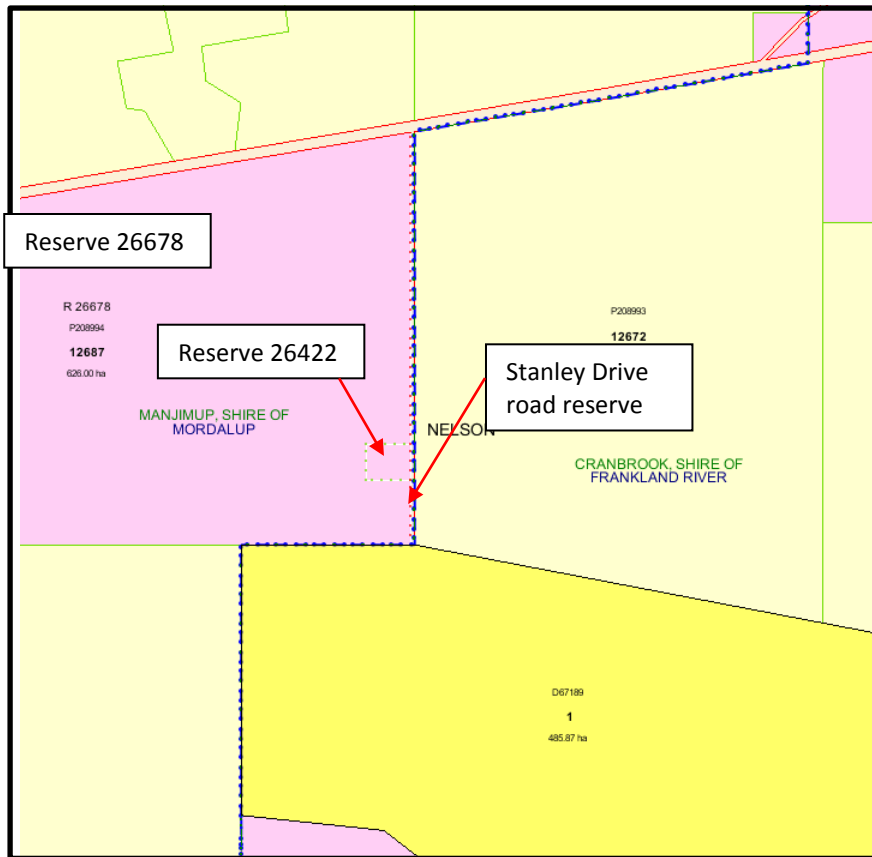
The Forest Products Commission has advised that:

- The Department of Biodiversity, Conservation & Attractions (DBCA) Warren Region has advised that they have no objection with FPC continuing using the section of Stanley Drive that goes through the south east corner of the nature reserve. The gazetted part of Stanley Drive that runs along the nature reserve boundary to the south east corner is only trafficable in summer.

- The only proviso is that DBCA would be required to approve a haulage plan before they cart on the DBCA section of Stanley Drive prior to the commencement of operations. Such an agreement would be with the Shire and would address matters relating to road access and maintenance requirements.

Access to the property is deemed to be satisfactory on the basis that:

- The lot has legal frontage to a gazetted road reserve.
- There is inter-departmental co-operation between the Forest Products Commission and the Department of Biodiversity, Conservation and Attractions over use of the track through Reserve 26678.
- The FPC has stated in their Plantation Management Plan that they will enter into a Haul Route Agreement with the Shire prior to the commencement of haulage operations. The Shire can at that stage also require updated proof of approval to use the track by DBCA.
- The FPC has committed to provision of a Harvesting Management Plan prior to any harvesting event; and restitution of roads where damage has resulted from heavy vehicle usage associated with management of the plantation.
- The FPC will require a separate Permit from Main Roads WA for road access by any Restricted Access Vehicles.
- The FPC has to provide a haulage plan to the Department of Biodiversity Conservation and Attractions in accordance with their conditional agreement to allow access through Reserve 26678.
- When any harvesting plan is lodged, the Shire has the ability to consult with any authority deemed necessary.



Map Enlargement (aerial)

- ***Restricted Access Vehicles***

Main Roads WA are responsible for administering road access for Restricted Access Vehicles (RAVs) in Western Australia. RAVs can only operate on roads approved by Main Roads, or where granted a specific permit.

As part of any future Harvesting Plan, the Forest Products Commission will need to provide the local government with information on the use and management of roads.

As outlined in the June 2019 Council report FPC could apply for a 'Restricted Local Access' Period Permit which provides access to the final destination of a particular transport task (journey). This can cater for access to a plantation.

Main Roads WA can issue a permit to a particular vehicle combination and / or length, with particular conditions (i.e. traffic management, speed restriction etc.) relevant to the specific transport task, which in this case would be harvesting.

The Forest Products Commission has also liaised directly with Main Roads WA on this matter who has confirmed in writing that they can apply by lodging a 'Forestry Access Permit Application'.

The Permit application must be completed for each prime mover intended to be used on this road, and specify the exact combination and length of the vehicle.

- ***Clearing of native vegetation***

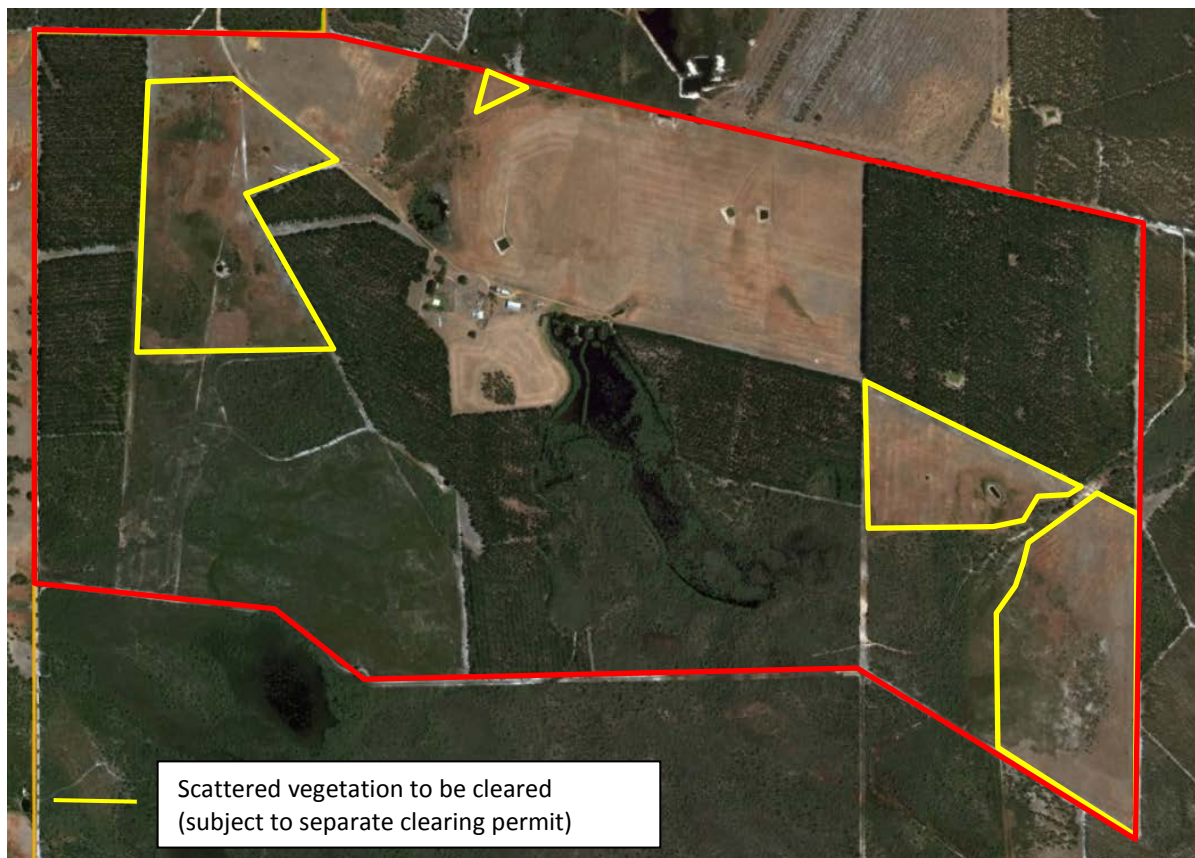
The Forest Products Commission has confirmed that it does not propose to clear any existing intact native vegetation.

There are some areas of scattered native vegetation that the DWER has identified as requiring a permit if those areas were to be cleared mechanically.

The Forest Products Commission has identified that a number of these areas do not contain any native vegetation, and they intend to engage with DWER over the potential to develop these areas with plantations (represented by the 66.7 hectares on the Plantation Management Plan).

The Department of Water and Environmental Regulation (DWER) administers the clearing provisions of the *Environmental Protection Act 1986*. They assess applications for clearing permits and decide whether to grant or refuse the application in accordance with the above Act.

The DWER assessment is a judgment in accordance with the requirements of the *Environmental Protection Act 1986* on whether or not a clearing permit application is likely to have a significant effect on the environment.



Aerial with overlay

If planning approval is granted for a plantation, it does not negate the need for the Forest Products Commission to obtain a separate clearing permit. In other words, the applicant will only be able to establish a plantation in areas approved for clearing under a clearing permit.

It is not uncommon for clearing permits to be processed by DWER after a planning approval has been granted by a local authority.

This was the case for an extractive industry approved by the Shire on Lot 8078 Climie Road, Cranbrook in December 2017. The quarry operators are currently seeking a clearing permit through DWER.

If a clearing permit is granted by DWER, the combined total plantation area would be 269 hectares, comprising of 125 hectares existing plantation and 144 hectares of proposed plantation.

The balance lot area of 216 hectares would remain in its natural state. The Forest Products Commission has advised that the majority is relatively intact and of good quality, however some areas have been grazed by livestock from time to time.

- **Ramsar Site**

A number of submissions make reference to the area being environmentally sensitive, the proximity of the plantation to a Ramsar site and raise concerns over impacts that the plantation may have on the environment.

There is an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. It is known as the Ramsar Convention.

The ‘Muir-Byenup System’ Ramsar site is located to the south of Muirs Highway – refer Attachment 3.

The Australian Government Department of Environment and Energy website identifies that:

‘Ramsar wetlands are those that are representative, rare or unique wetlands, or are important for conserving biological diversity. These are included on the List of Wetlands of International Importance developed under the Ramsar Convention.’

There is a comprehensive management plan for the Ramsar site and extensive monitoring of groundwater and water quality occurs.

From a planning perspective, it is considered unlikely that the proposal would significantly adversely affect the Ramsar site for the following reasons:

- i. Any clearing can only occur if a clearing permit is issued by Department of Water and Environmental Regulation who also assess any environmental impact.
- ii. There is already an established plantation on the lot. The application is to extend an existing land use, so it is not introducing a new land use.
- iii. The plantation is adjacent to a conservation reserve managed by the Department of Biodiversity Conservation and Attractions. The applicant has liaised with DBCA who has not expressed any concerns over the land use, and have agreed to allow continued access through their reserve to provide access to the lot.
- iv. Lot 1 is located approximately 2 kilometres from the Ramsar site, so there would be a buffer between the plantation and Ramsar site.
- v. There is no substantiated scientific evidence that the plantation will have a negative impact.
- vi. The applicant proposes to retain existing intact native vegetation, vegetation along creeks and retain existing landform features.

The subject lot is in an environmentally sensitive site, and it is for this reason that any clearing requires specific approval from DWER. DWER has the appropriate expertise to assess environmental considerations as part of the clearing permit process.

A brief assessment of the matters to be considered under the deemed provisions of the *Planning & Development (Local Planning Schemes) Regulations 2015* is provided below.

Matters to be considered	Comment
a) <i>the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</i>	The aims of the scheme include to encourage economic growth by facilitating a diversified use of rural land which are compatible with surrounding farm practices. Subject to implementation of a satisfactory management plan, approval of the application would be consistent with the objectives of the scheme.
b) <i>the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that</i>	No other proposed schemes or scheme amendments are currently seriously entertained.

Matters to be considered	Comment
<i>has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;</i>	
c) <i>any approved State Planning Policy</i>	Approval of the proposal would be consistent with SPP2.5 Rural Planning
d) <i>any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);</i>	Not relevant
e) <i>any policy of the Commission</i>	Approval of the proposal would not be inconsistent with the WAPC's lower Great Southern Strategy
f) <i>any policy of the State;</i>	In determining the application, due regard is to be given to the Code of Practice for timber plantations in Western Australia
g) <i>any local planning policy for the Scheme area</i>	The Shire does not have any relevant local planning policies relevant to the consideration of this application.
h) <i>any structure plan, activity centre plan or local development plan that relates to the development;</i>	N/A
i) <i>any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;</i>	N/A
j) <i>in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;</i>	N/A
k) <i>the built heritage conservation of any place that is of cultural significance</i>	N/A

Matters to be considered	Comment
<p><i>l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;</i></p>	<p>No impact identified by the Applicant</p>
<p><i>m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i></p>	<p>It is noted that a number of the submissions raise concerns about the impact the proposal will have on the agricultural operations on the adjoining land including but not limited to weed, pests, vermin and spraying. Subject to the management plan being updated to provide improved practices, these matters may be capable of being addressed.</p>
<p><i>n) the amenity of the locality including the following –</i></p> <p><i>(i) environmental impacts of the development;</i></p> <p><i>(ii) the character of the locality;</i></p> <p><i>(iii) social impacts of the development;</i></p>	<p>It is noted that a number of the submissions raise concern about the social impact of the proposal and other plantations could have on the social fabric of the town. Whilst this is noted as a concern, it is not considered that this specific proposal will have a significant undue adverse social impact on the town. However, it is noted that, if other proposals are lodged for tree farms this could result in less families living in the locality.</p>
<p><i>o) The likely effects of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or water resource.</i></p>	<p>The management plan has been updated to require planting to be a minimum setback from drainage lines and wetlands. The land proposed to be cleared is subject to a clearing permit. The impact of the loss of trees will be assessed as part of the clearing permit application, which is determined separate to this application.</p>
<p><i>p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;</i></p>	<p>Accepted</p>
<p><i>q) The suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip,</i></p>	<p>The proposal includes a fire management plan and details 15 m external fire breaks and 6 metre internal fire breaks.</p>

Matters to be considered	Comment
<i>bushfire, soil erosion, land degradation or any other risk</i>	
r) <i>the suitability of the land for the development taking into account the possible risk to human health or safety;</i>	The proposal does not create any human health or safety issues.
s) <i>The adequacy of -</i> <ul style="list-style-type: none"> <li data-bbox="331 555 746 667">i. <i>the proposed means of access and egress from the site; and</i> <li data-bbox="331 689 746 835">ii. <i>arrangements for the loading, unloading, manoeuvring and parking of vehicles;</i> 	It is noted that the constructed access of Stanley Drive deviates from the road reserve into the adjacent reserves. The relevant state government departments have not raised any issue with this arrangement. Subject to a haul route agreement being approved by the Shire and any RAV permits being put in place as required, the access arrangements are considered to be satisfactory.
t) <i>the amount of traffic likely to be generated by the development particularly in relation to the capacity of the road system in the locality and the probable effects on traffic flow and safety;</i>	The plantation management plan details that the haul route agreement will detail road access and maintenance requirements and that this shall be approved by the Shire prior to haulage operations.
u) <i>The availability and adequacy for the development of the following-</i> <ul style="list-style-type: none"> <li data-bbox="331 1290 746 1323">iii. <i>public transport services;</i> <li data-bbox="331 1346 746 1379">iv. <i>public utility services;</i> <li data-bbox="331 1402 746 1469">v. <i>storage management and collection of waste;</i> <li data-bbox="331 1491 746 1637">vi. <i>access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);</i> <li data-bbox="331 1659 746 1727">vii. <i>access by older people and people with disability;</i> 	N/A
v) <i>the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;</i>	Whilst it is noted from the submissions that there is concern about the shrinking size of the population as a result of plantations, it is considered that this application in isolation will not have a significant negative impact on any specific community service.

Matters to be considered	Comment
w) <i>the history of the site where the development is to be located</i>	The site has been used as a plantation for a number of years.
x) <i>the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;</i>	Whilst it is noted from the submissions that there is concern about the shrinking size of the population as a result of plantations, it is considered that this application in isolation will not have a significant negative impact on any specific community service.
y) <i>any submissions received on the application;</i>	The submissions, as summarised in Attachment 4, shall be given due regard in determining this application.
za) <i>the comments or submissions received from any authority consulted under clause 66;</i>	Based upon the detail received from the Forest Products commission, it does not appear as though the relevant government departments have raised any specific issue in regard to this proposal.
zb) <i>any other planning consideration the local government considers appropriate;</i>	

- **Options available to Council**

Option 1 – Reconsider the revised application and approve the application subject to conditions

The Shires Local Planning Strategy recognises that there are a wide range of different agricultural activities established in the existing Rural zone. The lot is zoned Rural and a plantation is a discretionary land use.

The land use itself has already been well established on Lot 1 since the 1990’s, albeit that the Shire does not have any record of a planning approval being issued for the establishment of the original plantation. The application is not introducing a new land use, it simply seeks to extend an existing use.

It is recognised that the local community has concerns over the potential economic and social issues as a result of past wide spread plantations in the Unicup area. Many submissions identify objections based on concerns that more applications may be lodged to use entire farming properties for plantations, and that it will ultimately result in a loss of productive farmland for traditional farming activities in the Unicup locality.

It is not known at this stage whether there will be an increase of plantation applications in the Shire, however it is recommended that the Shire consider development of a Local Planning Policy to set out clear planning guidelines for future plantation proposals. Whilst future applications are

noted as a concern by residents, this application must be assessed on merit with the planning framework applicable at the time of determination.

The long term impacts of 'whole of farm' plantations are a broader strategic issue which the Shire can seek to address separately by:

1. Undertaking broader community consultation such as a community survey on the issue of plantations and widely engaging with key stakeholders;
2. Identifying land that is considered to be priority agricultural land at a local level;
3. Developing a Local Planning Policy which sets out guidelines and criteria for the assessment of plantation applications. A Policy may, for example, seek to limit the extent of plantation areas so that parts of a lot or farm can continue to be used for traditional farming activities.

The Shire of Jerramungup successfully developed a Local Planning Policy on plantations in 2009/2010 after becoming concerned about the number and extent of 'whole of farm' plantations being pursued, both for harvesting and carbon sequestration. Their Local Planning Policy is aimed at protecting rural land and was tested at the State Administrative Tribunal. Jerramungup Shire successfully defended a decision to refuse a whole lot plantation application in 2011 as the plantation proposal did not comply with their Policy.

If a local planning policy was developed with community input and adopted in accordance with the planning framework, then the Shire will be in a stronger position in dealing with any future plantation applications.

The report identifies a number of shortcomings in regard to the detail provided in the plantation management plan. It is considered that if a condition is imposed seeking to require more detail in the plantation management plan that some of the concerns of the adjoining landowners may be able to be addressed.

In the absence of any Local Planning Policy providing guidance on plantations, it is recommended that the plantation be approved.

Option 2 – Refuse the application

The proposed landuse is discretionary therefore Council has the ability to refuse the application, however Council would need to provide justifiable valid planning reasons for making such a decision.

Furthermore, refusal of this reconsideration request by the Tribunal would then result in the matter proceeding to a full hearing at the State Administrative Tribunal.

Given that the Applicant will be represented by the State Solicitors office, if the Shire resolved to refuse the reconsideration request then it would need to prepare for a hearing with the matter being conducted by the Shire's solicitors and would require witness statements by independent experts most likely relating to planning, agriculture and/or water usage and any other experts the Shire considered were relevant.

If Council were to decide to not support the reconsideration it would then simply resolve to reaffirm its decision of June 2019 which was that

Council were of the view that the plantation extension is not consistent with the state planning framework's underlying theme to protect productive agricultural land, and the

planting of an entire lot/farm is contrary to the objective of the Rural zone 'to ensure the continuation of broad-hectare agriculture in the district encouraging where appropriate the retention and expansion of agricultural activities.

Policy Applicable – Implications

There is no Local Planning Policy applicable to this report. If Council has reservations over 'whole lots' being used for plantation purposes then it can canvas the wider community for their views, and consider using the results to formulate a Local Planning Policy.

If the Shire seeks to progress a Local Planning Policy it is recommended that there be extensive community consultation, and consideration should be given to different types of tree farming including plantations for harvesting and plantations for carbon sequestration.

Financial Implications

- *Consultant fees*

The Shire pays consultancy fees to Allerding & Associates for preparation of this report, attendance at the mediation and attendance at the Council meeting. In regard to the mediation before the State Administrative Tribunal, the Shire has been represented by McLeods and pays professional fees to McLeods.

- *State Administrative Tribunal*

If the Shire reaffirms its decision to refuse the application the Shire will need to continue to utilise McLeods to represent them in regard to the hearing and engage expert witnesses to provide planning expert evidence and other witness/es to provide evidence as to whether the land is 'priority agricultural land'.

Risk Implications

The risks associated with matters in this report are:

- Failure to fulfil Statutory, Regulatory or Compliance Requirements

The **impact** of the risk is Non-Compliance

The **consequences** of these risks are considered to be Minor

The **likelihood** is Unlikely

Hence the **risk rating** for this item is Low

Risk mitigation includes seeking professional planning advice.

Strategic Community Plan Reference

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

Objective 2: Economic – To be an innovative, diverse, prosperous and growing economy

Outcome 2.1: A diverse, prosperous economy

Strategy 2.1.1: Support local business and promote further investment in the district, including opportunities for industry growth and development

Strategy 2.1.2: Continue to advocate for the Southern Link Transport Hub (SLTH) and other innovative opportunities

Outcome 2.2: A progressive, vibrant sustainable agricultural industry

Strategy 2.2.1: Maintain strong relationship with CBH and support future expansion

Strategy 2.2.2: Actively engage and support local agricultural and allied industries

VROC Implications

There are no strategic VROC implications from this report.

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION

That Council:

1. In light of additional information and a revised application, pursuant to Section 31 of the State Administrative Tribunal Act, the State Administrative Tribunal be advised that Council has reconsidered its decision in regard to the amended proposal for the application for expansion of the plantation on Lot 1 (935) Bunnings Log Road, Frankland River and decided to approve the application subject to the following conditions:

- (a) The plantation management plan shall be updated to incorporate the following:**
- i. Clause 3.6 shall be updated to require written notification of proposed spray to be provided to all neighbouring property owners at least 48 hours before spraying activity.**
 - ii. Clause 3.7 shall be updated detailing the regularity of inspections for feral animals being at not less than 3 times per calendar year and the results of the inspection detailed in an audit table;**
 - iii. Clause 4.1 being updated to state that details of fertilising shall be recorded in an audit table.**
 - iv. Clause 4.2 being updated to state that the findings of the weed monitoring and weed control shall be recorded in an audit table.**
 - v. Clause 4.3 being updated to state that details of the spray plans will be recorded in an audit table.**
 - vi. Clause 4.3 being updated to state that the monitoring for pests shall occur on at least a 3 monthly basis. Details of the form of monitoring shall be recorded in an audit table.**
 - vii. Clause 4.4 being updated to state that FPC shall be required to undertake all maintenance in accordance with the Haul Route Agreement approved by the Shire of Cranbrook.**
 - viii. Clause 4.5 being updated to state that riparian vegetation shall be suitably protected with satisfactory fencing in the event that the property is grazed.**
 - ix. Clause 4.7 being updated to require that adjoining neighbours be given written notice one week prior to thinning schedules being implemented.**
 - x. A new clause 5 being added to the management plan titled community liaison. Clause 5 shall provide:**
 - The name of a person and their position at Forest Products Commission that neighbours can contact in the event of any issues in regard to the property**
 - A contact phone number and email for the contact person**
 - Details of the contact person shall be provided to all neighbours upon approval of the Management Plan and upon any changes of staff.**
 - A copy of the plantation management plan shall be provided to the Shire of Cranbrook and adjoining neighbours upon approval and on 1 July every year thereafter.**
 - Details of all community liaison contact shall be recorded in an audit table detailing;**
 - the date of the contact;**

- the name of the community member;
 - the nature of the concern;
 - action taken; and
 - any further follow up required.
- xi. The Plantation Management Plan shall be updated to refer to the audit tables required pursuant to condition (a) and the audit tables shall be available for the Shire to review upon request.
- (b) A copy of the updated plantation management plan addressing matters detailed in condition (a) shall be provided to the Shire of Cranbrook for approval prior to commencement of any work on site.
- (c) The plantation must be established and operated in accordance with the revised Plantation Management Plan updated to address matters raised in condition (a) above. The Plantation Management Plan (PMP) forms part of the revised application, including measures such as weed management, retention of existing remnant vegetation and protection of creeklines.
- (d) The applicant must at all times implement the Fire Management Plan (FMP) contained within the PMP.
- (e) The applicant must ensure that a copy of the approved FMP is stored at the main entrance to the property (Stanley Drive) in a secure, weatherproof and clearly labelled container at all times.
- (f) Internal roads / access tracks must be adequately signposted to provide clear direction to water points (for fire emergencies) and exit points.
- (g) The applicant must ensure that there are trafficable connections from Stanley Drive to all water points / permanent dams required for fire management access by emergency fire vehicles.
- (h) The applicant must notify the Shire 18 months prior to commencement of any harvesting operation, and enter into a Haul Route Agreement with the Shire setting out the specific detail relating to haulage of timber products.
- (i) The applicant must submit an aerial spray application management plan prior to any aerial spraying on site for the proposed plantation areas. The plan is to be in accordance with Appendix 3 of the Code of Practice for Timber Plantations in Western Australia (2014) (Code of Practice) and should ensure protection of any watercourses from any spray drift.
2. Include the following footnote advice on the approval:
- a) The plantation is to operate in compliance with the Code of Practice and FESA 'Guidelines for Plantation Fire Protection' (2011).
- b) The applicant is advised to liaise with the Shire of Manjimup in regards to any harvesting plan as roads within the adjacent Shire may be affected.
- c) This approval and support for the FMP and PMP is not an approval to utilise any portion of adjacent Reserves 26422 and 26678 for access.

- d) The southern portion of Stanley Drive has been constructed outside of the formal road reserve therefore access will need to be addressed as part of any harvesting plan. It is recommended that excision of the track from the adjacent reserves be pursued through Parks and Wildlife Services and / or the Department of Planning, Lands and Heritage.
3. Authorise Liz Bushby of Town Planning Innovations to write to the Department of Biodiversity, Conservation and Attractions (Parks and Wildlife Services), the Department of Planning, Lands and Heritage and the Shire of Manjimup (on behalf of the Shire) and recommend that those authorities jointly investigate:
 - a) Excision of the constructed track from Reserve 26422 and 26678 as formal road reserve to provide constructed road access to Lot 1 or;
 - b) Upgrading of the southern portion of Stanley Road to achieve a constructed road within the existing legal road reserve that is trafficable all year round.
 4. Authorise Liz Bushby of Town Planning Innovations to liaise with nearby local governments and relevant state government departments in order to develop a draft local planning policy regarding plantations in Rural zoned land. The draft policy is to be presented to Council for review prior to advertising, in accordance with Clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

COUNCIL DECISION

Motion 06092019

Moved by Cr Adams, seconded Cr Slater that Council:

1. In light of additional information and a revised application, pursuant to Section 31 of the State Administrative Tribunal Act, the State Administrative Tribunal be advised that Council has reconsidered its decision in regard to the amended proposal for the application for expansion of the plantation on Lot 1 (935) Bunnings Log Road, Frankland River and decided to approve the application subject to the following conditions:
 - a. The plantation management plan shall be updated to incorporate the following:
 - i. Clause 3.6 shall be updated to require written notification of proposed spray to be provided to all neighbouring property owners at least 48 hours before spraying activity.
 - ii. Clause 3.6 shall be modified to provide buffers consistent with the Water Quality Protection Note on vegetation buffers to sensitive water resources published by the Department of Water, noting the 30 metre minimum buffer for ephemeral water bodies and 50 metres for permanent water bodies.
 - iii. Clause 3.7 shall be updated detailing the regularity of inspections for feral animals being at not less than 3 times per calendar year and the results of the inspection detailed in an audit table;
 - iv. Clause 4.1 being updated to state that details of fertilising shall be recorded in an audit table.
 - v. Clause 4.2 being updated to state that the findings of the weed monitoring and weed control shall be recorded in an audit table.
 - vi. Clause 4.3 being updated to state that details of the spray plans will be recorded in an audit table.
 - vii. Clause 4.3 being updated to state that the monitoring for pests shall occur on at least a 3 monthly basis. Details of the form of monitoring shall be recorded in an audit table.

- viii. **Clause 4.4 being updated to state that FPC shall be required to undertake all maintenance in accordance with the Haul Route Agreement approved by the Shire of Cranbrook.**
- ix. **Clause 4.5 being updated to state that riparian vegetation and wetlands shall be suitably protected with satisfactory fencing in the event that the property is grazed. Details of fencing shall be provided and approved by the Shire.**
- x. **Clause 4.7 being updated to require that adjoining neighbours be given written notice one week prior to thinning schedules being implemented.**
- xi. **A new clause 7 being added to the management plan titled community liaison. Clause 7 shall provide:**
- **The name of a person and their position at Forest Products Commission that neighbours can contact in the event of any issues in regard to the property**
 - **A contact phone number and email for the contact person**
 - **Details of the contact person shall be provided to all neighbours upon approval of the Management Plan and upon any changes of staff.**
 - **A copy of the plantation management plan shall be provided to the Shire of Cranbrook and adjoining neighbours upon approval and on 1 July every year thereafter.**
 - **Details of all community liaison contact shall be recorded in an audit table detailing;**
 - **the date of the contact;**
 - **the name of the community member;**
 - **the nature of the concern;**
 - **action taken; and**
 - **any further follow up required.**
- xii. **The fire management plan (clause 5) shall be updated in accordance with the Guidelines for Plantation Fire Protection to:**
- **Identify the minimum 100 metre hazard separation zone between the plantation and the existing habitable building;**
 - **Provide a fire fighting equipment register and details of cooperative arrangements;**
 - **Detail the compartment size of each area and the separation distance between each of the compartments;**
 - **In regard to fire protection measures:**
 - **Potential ignition sources shall be identified in the Fire Management Plan;**
 - **A plan detailing access in and around the plantation is to be prepared;**
 - **Measures to protect powerlines are to be clearly stated including compliance with Appendix 1 pinus species Western Power horizontal clearance standards for the relevant sized kV power line;**
 - **A fire management map shall be prepared and approved by the Shire. The fire management plan shall detail:**
 - **Compartment boundaries and size;**
 - **Water supplies including irrigation channels and dams;**
 - **Emergency access/egress;**
 - **Structures;**
 - **Significant features e.g. dead end tracks, areas of remnant vegetation, creek crossings;**
 - **Standardised map legend.**

- **Detail water supplies for fire fighting purposes including a minimum 50,000 litre water supply on site available for initial use during fire response. Alternatively written formal agreement is to be provided from adjoining neighbours to establish a joint strategic water supply**
- xiii. **The Plantation Management Plan shall be updated to refer to the audit tables required pursuant to condition (a) and the audit tables shall be available for the Shire to review upon request.**
- (b) **A copy of the updated plantation management plan addressing matters detailed in condition (a) shall be provided to the Shire of Cranbrook for approval prior to commencement of any work on site.**
 - (c) **The plantation must be established and operated in accordance with the revised Plantation Management Plan updated to address matters raised in condition (a) above. The Plantation Management Plan (PMP) forms part of the revised application, including measures such as weed management, retention of existing remnant vegetation and protection of creek lines.**
 - (d) **The applicant must at all times implement the Fire Management Plan (FMP) contained within the PMP.**
 - (e) **The applicant must ensure that a copy of the approved FMP is stored at the main entrance to the property (Stanley Drive) in a secure, weatherproof and clearly labelled container at all times.**
 - (f) **Internal roads / access tracks must be adequately signposted to provide clear direction to water points (for fire emergencies) and exit points.**
 - (g) **The applicant must ensure that there are trafficable connections from Stanley Drive to all water points / permanent dams required for fire management access by emergency fire vehicles.**
 - (h) **Satisfactory fencing shall be installed surrounding riparian vegetation and wetlands prior to the planting of any new areas subject of this approval.**
 - (i) **The applicant must notify the Shire 18 months prior to commencement of any harvesting operation, and enter into a Haul Route Agreement with the Shire setting out the specific detail relating to haulage of timber products.**
 - (j) **The applicant must submit an aerial spray application management plan prior to any aerial spraying on site for the proposed plantation areas. The plan is to be in accordance with Appendix 3 of the Code of Practice for Timber Plantations in Western Australia (2014) (Code of Practice) and should ensure protection of any watercourses from any spray drift.**
2. **Include the following footnote advice on the approval:**
- a) **The plantation is to operate in compliance with the Code of Practice and FESA 'Guidelines for Plantation Fire Protection' (2011).**
 - b) **The applicant is advised to liaise with the Shire of Manjimup in regards to any harvesting plan as roads within the adjacent Shire may be affected.**

- c) **This approval and support for the FMP and PMP is not an approval to utilise any portion of adjacent Reserves 26422 and 26678 for access.**
 - d) **The southern portion of Stanley Drive has been constructed outside of the formal road reserve therefore access will need to be addressed as part of any harvesting plan. It is recommended that excision of the track from the adjacent reserves be pursued through Parks and Wildlife Services and / or the Department of Planning, Lands and Heritage.**
- 3. Authorise Liz Bushby of Town Planning Innovations to write to the Department of Biodiversity, Conservation and Attractions (Parks and Wildlife Services), the Department of Planning, Lands and Heritage and the Shire of Manjimup (on behalf of the Shire) and recommend that those authorities jointly investigate:**
- a) **Excision of the constructed track from Reserve 26422 and 26678 as formal road reserve to provide constructed road access to Lot 1 or;**
 - b) **Upgrading of the southern portion of Stanley Drive to achieve a constructed road within the existing legal road reserve that is trafficable all year round.**
- 4. Authorise Liz Bushby of Town Planning Innovations to liaise with nearby local governments and relevant state government departments in order to develop a draft local planning policy regarding plantations in Rural zoned land. The draft policy is to be presented to Council for review prior to advertising, in accordance with Clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

Carried 5/1

Reason for Change

Council wanted further conditions included in the plantation management plan and the fire management plan.

7 members of the public left the chambers at 3.59pm.

Cr Beech and Cr Bigwood re-entered the chambers at 3.59pm.

- (b) the consideration to be received by the local government for the disposition; and
- (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.”

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The valuation for this lot is \$12,000, with the offer to purchase being \$11,000. The agent’s selling fee is \$3,000, there will also be settlement costs involved with the sale of this lot.

Risk Implications

The risks associated with matters in this report are:

- Failure to fulfil Statutory, Regulatory or Compliance Requirements

The **impact** of the risk is Non-Compliance

The **consequences** of these risks are considered to be Minor

The **likelihood** is Unlikely

Hence the **risk rating** for this item is Low

Risk mitigation includes ensuring the advertising process has been undertaken prior to sale of the land.

Strategic Community Plan Reference

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

Objective 2: Economic – To be an innovative, diverse, prosperous and growing economy

Outcome 2.1: A diverse, prosperous economy

Strategy 2.1.1: Support local business and promote further investment in the district, including opportunities for industry growth and development

Consultation

Consultation included the Council as well as the local public notice that was required for this report.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION/COUNCIL DECISION

Motion 07092019

Moved Cr Adams, seconded Cr Carey that:

- 1. It be noted that no submissions were received in relation to the sale of Lot 284 Phillips Crescent, Cranbrook following advertising undertaken in accordance with section 3.58 (3) of the Local Government Act 1995;**
- 2. Lot 284 Phillips Crescent, Cranbrook be sold to Robert John and Pamela Dawn Bullock for the sum of \$11,000; and**
- 3. Proceeds from the sale of Lot 284 Phillips Crescent, Cranbrook be placed into the Land Reserve.**

Carried 8/0

An offer to purchase the land was considered by the Council as a confidential item at the 21 August 2019 meeting of Council and it was resolved:

“That Council accept the offer of \$18,000 from Amber Management Pty Ltd for Lot 46 (106) Shepherd Road Frankland River, subject to satisfactory legal advice being received.”

Officers Comment

Legal advice has been sought in order to transfer the land into the Shire’s name. Statutory Declarations have been made and transfer of land documents have been completed and lodged with Landgate.

The potential sale has also been advertised, with submissions closing at 4:00pm on Tuesday 17 September 2019, the day prior to the Council meeting. To date no submissions have been received, however if any are received prior to the Council meeting they will be distributed to Councillors and tabled at the meeting.

Section 3.58 (3)(b) of the Act requires the Council to consider any submissions made prior to the Council making the decision to sell (refer statutory environment below).

Whilst there has been little to no interest in the land since the Shire took possession some three years ago, there is some interest now due to the harvest of the bluegum plantation that will return some income to owners in the strata, however the lengthy process required to transfer the land into the Shire’s name and then sell the property has made selling this land quite difficult.

In addition to there being outstanding rates on this property, there is also quite a substantial amount of outstanding strata levies owing and these levies are the responsibility of the purchaser, upon settlement. Any potential purchasers are informed of the requirement to pay these outstanding levies by way of the written offer and acceptance document. This outstanding debt reduces the amount any prospective purchasers are willing to pay for the purchase of the land with some even deeming it too difficult or too cumbersome to go through with.

This property has had outstanding rates and legal charges for many years now and whilst the outstanding amount is more than the current offer, it is considered that after so many years of outstanding rates accruing on the property it is more beneficial to sell the land now and write off the remaining legal charges associated with this debt rather than keep the land knowing that the debt will continue to accrue each year. The amount outstanding on this property is currently as follows:

Rates	\$9,042.41
ESL	\$917.00
Legal Fees	\$9,566.58
Interest	\$21,995.32
TOTAL	\$41,521.31

The property has been valued at \$35,000, with the current offer being \$18,000. There will be agent fees and settlement costs incurred with the sale, however all rates and ESL charges should be recovered, leaving some legal fees and the interest that has accrued being unable to be recovered. As such it is recommended that any remaining amount on the assessment after settlement has occurred, be written off.

Statutory Environment

Section 3.58 of the Local Government Act 1995 defines the process required for the disposal of local government property. This section states:

- “(2) Except as stated in this section, a local government can only dispose of property to —
- (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned;
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include-
- (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.”

Policy Applicable – Implications

There is no Council policy applicable to this report.

Financial Implications

The valuation for this property is \$35,000, with the offer to purchase being \$18,000. The total amount of rates and charges outstanding is currently \$41,521.31. The remaining amount will have to be written off after settlement has occurred, as the property must be transferred with no encumbrances.

Risk Implications

The risks associated with matters in this report are:

- Failure to fulfil Statutory, Regulatory or Compliance Requirements

The **impact** of the risk is Non-Compliance

The **consequences** of these risks are considered to be Minor

The **likelihood** is Unlikely

Hence the **risk rating** for this item is Low

Risk mitigation includes obtaining legal advice prior to transferring the land into the Shire’s name, together with ensuring the advertising process has been undertaken prior to sale of the land.

Strategic Community Plan Reference

The 2017-2027 Shire of Cranbrook, Strategic Community Plan states that:

Objective 4: Leadership – Demonstrate strong governance, leadership and organisational growth

Outcome 4.1: Excellence in governance, compliance, regulation and reporting

Strategy 4.1.1: Maintain a high level of corporate governance, responsibility and accountability

Consultation

Consultation included CS Legal, the Council as well as the local public notice advertising that was required as part of this report.

VROC Implications

There are no strategic VROC implications from this report

Voting Requirements

Simple Majority

OFFICERS RECOMMENDATION/COUNCIL DECISION

Motion 08092019

Moved Cr Carey, seconded Cr Slater that subject to no submissions being received in relation to the sale of Lot 46 on Strata Plan 33176 Shepherd Road Frankland River, following advertising undertaken in accordance with section 3.58 (3) of the Local Government Act 1995, that Council resolve to:

- 1. Sell lot 46 on Strata Plan 33176 Shepherd Road Frankland River to Amber Management Pty Ltd for the sum of \$18,000; and**
- 2. Any remaining outstanding interest and legal fees associated with this land be written off.**

Carried 7/0

Cr Beech re-entered the chambers at 4.02pm

10.3 WORKS

Nil

11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY A DECISION OF THE MEETING

Nil

13. MATTERS BEHIND CLOSED DOORS

Nil

14. CLOSURE OF MEETING

There being no further business to discuss, the Shire President, Cr Egerton-Warburton declared the meeting closed at 4.03pm.